

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001	03-md-1570 (GBD)(SN) ECF Case
This document relates to: <i>Ashton et al. v. al Qaeda Islamic Army, et al.</i> , 02-cv-6977 (GBD)(SN) and (member case <i>Burlingame v. Bin Laden, et al.</i> , 02-cv-7230 (GBD)(SN))	02-cv-6977 (GBD)(SN) and 02-cv-7230 (GBD)(SN) ECF Case

FRANK H. GRANITO, III, Esq., hereby states under penalty of perjury that:

1. I am a member of Speiser Krause, PC and an attorney representing the *Burlingame* subset of *Ashton* Plaintiffs identified on Exhibit A attached hereto (the “*Burlingame IX*” Plaintiffs), who are the subject of this motion for partial final judgment in the above-captioned litigation. I submit this Declaration in support of this motion for final judgment on behalf of only the individual Plaintiffs identified in Exhibit A, and request permission to allow any remaining *Burlingame* plaintiffs to move for the similar relief in separate stages.

2. The sources of information and the basis for belief in the statements contained herein are my representation of the *Burlingame IX* Plaintiffs in connection with the September 11th terror attacks, my firm’s files, conversations with family members of these Plaintiffs, as well as other court records relating to the multi-district litigation to which the *Burlingame IX* Plaintiffs are parties. Any matters about which I lack personal knowledge are asserted herein upon information and belief.

3. Claims brought on behalf of the decedent listed in Exhibit A were part of the original *Burlingame* complaint, styled *Burlingame, et al. v. Bin Laden, et al.*, filed on September 10, 2002, and bearing civil action number 02-cv-7230, subsequently ordered consolidated into the master complaint bearing the caption *Ashton et al. v. al Qaeda Islamic Army, et al.*, 02-cv-6977

(GBD)(SN). Since these plaintiffs remain segregated in the consolidated *Ashton* filings under their original civil action number and thus can easily be identified, plaintiffs appearing under the *Burlingame* civil action number 02-cv-7230 within the consolidated *Ashton* complaint are being collectively referred to as “*Burlingame* plaintiffs.”

4. The decedent listed in Exhibit A died in the September 11th terrorist attacks and is survived by the individuals whose relationships to the decedent described in Exhibit A are a result of marriage. The claims listed in Exhibit A reflect individuals whose relationships to the decedent, as detailed in the accompanying affidavits attached hereto as Exhibit B through D, fall into one of the categories of “functional equivalents” of immediate family members satisfying the criteria of eligibility for solatium damages under this Court’s prior decisions, to wit, stepparents, stepchildren and stepsiblings of those killed in the attacks.

5. In support of their entitlement to solatium damages, the claimants listed in Exhibit A have affirmed the details of their relationships to their respective decedents under penalties of perjury in the following sworn affidavits attached hereto as Exhibits B through D:

- Exhibit B: Affidavit of Christopher Dowdell, Stepchild of Decedent Brian Magee;
- Exhibit C: Affidavit of William Dowdell, Stepchild of Decedent Brian Magee; and
- Exhibit D: Affidavit of Matthew Dowdell, Stepchild of Decedent Brian Magee.

6. We have been retained individually by the plaintiffs listed in Exhibits A to pursue recovery for their solatium losses arising out of the death of their loved one on September 11, 2001. We have verified via written documentation and/or interviews that all of the plaintiffs listed in Exhibits A survived their decedent and have not recovered for their solatium damages previously. We have further confirmed that they do not have any prior judgment or pending motion before this Court for compensation arising out of the September 11th attacks.

7. In prior orders, the Court has established the loss amounts for solatium damages based on presumptive familial relationships to the decedent. *See, e.g.*, 03-md-1570 (02-cv-6977) (S.D.N.Y.)(GBD)(FM), Doc. No. 2623, entered 10/03/12, pp. 4-5; 03-md-1570 (S.D.N.Y.)(GBD)(FM), Doc. No. 3300, Filed 06/16/2016, p. 1. The Court has awarded these amounts for solatium damages to six prior groups of *Burlingame* plaintiffs. *See* 03-md-1570 (02-cv-7230) (GBD)(SN), Doc. No. 3987 (“*Burlingame I*”), Entered 04/30/2018, Doc. No. 4011 (“*Burlingame II*”), Entered 05/29/2018, Doc. No. 4087 (“*Burlingame III*”), Entered 08/07/2018 Doc. No. 4175 (“*Burlingame IV*”), Entered 09/13/2018, Doc. No. 4707 (“*Burlingame V*”), Entered 07/29/19, Doc. No. 5058 (“*Burlingame VI*”), Entered 09/03/2019. The Court has also previously established the criteria that will entitle certain claimants outside the immediate family to be deemed “functional equivalents” of immediate family members, and the loss amounts for solatium damages to those functional equivalents based upon the criteria met. 1:03-md-01570-GBD-SN Document 3363 Entered 10/14/2016; *see also* 03-md-1570 (02-cv-7230) (GBD)(SN), Doc. No. 4175, Entered 09/13/2018; 18-cv-08297(GBD)(SN) Doc. No. 29, Filed 09/13/19. The solatium amounts set forth in Exhibit A are the figures determined appropriate in the Court’s prior orders.

8. Previously, in connection with a motion for final judgment on behalf of other *Ashton* claimants, this Court asked that to expedite issuance of final judgment, they defer decision as to the appropriate quantum of punitive damages and present a proposed order with a rate of prejudgment interest of 4.96 per annum, compound annually. *See* 03-md-1570 (S.D.N.Y.) (GBD)(SN), Doc. No. 3362, Entered 10/14/2016. The form of the proposed order submitted herewith therefore conforms to the Court’s prior orders.

9. Accordingly, I respectfully request that this Court grant the proposed order submitted herewith in favor of the *Burlingame IX* Plaintiffs.

Dated: December 26, 2019
Rye Brook, New York

/s/ Frank H. Granito
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